

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

DEAN FOODS COMPANY, §  
§  
Plaintiff, § Case No.  
v. §  
§  
BRETT JOHNSON AND §  
DAIRY FARMERS OF AMERICA, INC., §  
§  
Defendants. §

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Dairy Farmers of America, Inc. (“DFA”) respectfully files this Notice of Removal of the above-entitled action from the 192nd Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Diversity jurisdiction exists over this action because the parties are completely diverse and the amount in controversy exceeds \$75,000.

**I. BACKGROUND**

On October 13, 2017, Plaintiff Dean Foods Company (“Dean Foods”) sued Defendants DFA and Brett Johnson (“Johnson”) in the 192nd Judicial District Court of Dallas County, Texas. Dean Foods alleges that DFA’s prospective hiring of Dean Foods’ former employee, Johnson, would violate an agreement not to compete between Dean Foods and Johnson. Dean Foods seeks, among other relief, an injunction preventing this hiring. Dean Foods did not make a jury demand in state court.

As set forth in the attached Index of Documents filed pursuant to Local Rule 81.1 of the United States District Court for the Northern District of Texas, DFA has attached copies of all

documents filed in the state court, which include: the Original Petition and Verified Application for Temporary Restraining Order, Temporary Injunction and Permanent Injunction; a Dallas County Civil District Court Cover Sheet; a Temporary Restraining Order issued by the state court; a letter from Plaintiff's counsel to the District Clerk; and citations issued to both defendants. In addition, DFA has attached a Civil Cover Sheet and Supplemental Civil Cover Sheet For Cases Removed From State Court hereto as Exhibits B and C, respectively.

## **II. DIVERSITY JURISDICTION**

This Court has subject-matter jurisdiction over this suit under 28 U.S.C. § 1332(a)(1) because it is a civil action between citizens of different states and the amount in controversy exceeds \$75,000.

### **A. There is complete diversity of citizenship.**

For diversity purposes, a corporation is “a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). In its Original Petition, Dean Foods alleges that it is a Delaware corporation with its principal place of business in Texas. Orig. Pet. at 2. Therefore, Dean Foods is a citizen of Delaware and Texas.

Dean Foods alleges that DFA is a Missouri corporation with its principal place of business in Missouri. *Id.* In fact, DFA is a Kansas corporation with its principal place of business in Kansas. Therefore, DFA is a citizen of Kansas.

Dean Foods alleges that Johnson is an individual residing in Illinois. *Id.* He is therefore a citizen of Illinois.

Because Dean Foods is a citizen of Texas and Delaware, DFA is a citizen of Kansas, and Johnson is a citizen of Illinois, the parties are completely diverse. Even if DFA were a citizen of Missouri as alleged in the Original Petition, the parties would still be completely diverse.

**B. The amount-in-controversy requirement is satisfied.**

It is apparent from the face of the Original Petition that the amount in controversy exceeds \$75,000. Dean Foods alleges that it “seeks monetary relief over \$200,000 but not more than \$1,000,000.” Orig. Pet. at 1. Accordingly, the amount in controversy requirement is satisfied. *See* 28 U.S.C. § 1446(c)(2).

### **III. PROCEDURAL ALLEGATIONS**

This Notice of Removal is timely filed within 30 days after DFA received the Original Petition on October 13, 2017. *See id.* § 1446(b)(1). Dean Foods has not yet formally served either defendant with a copy of the initial pleading.

Because Dean Foods has not served Johnson with its Original Petition, Johnson’s consent to removal is not required. *See id.* § 1446(b)(2)(A).

Venue is proper because the 192nd Judicial District Court of Dallas County, Texas is within the district and division of this Court. *See id.* § 1446(a).

Promptly after filing this Notice of Removal, DFA will provide written notice to Dean Foods and Johnson of this Notice of Removal and file a copy of this Notice of Removal with the clerk of the 192nd Judicial District Court of Dallas County, Texas. *See id.* § 1446(d).

Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1 of the United States District Court for the Northern District of Texas, the following documents are attached to this Notice of Removal.

- A. an index of all documents that clearly identifies each document and indicates the date the document was filed in state court;

- B. a copy of the state court docket sheet;
- C. copies of all documents on file in the case in the 192nd Judicial District Court of Dallas County, including all process, pleadings, and orders served on DFA in this action; and
- D. a separately signed certificate of interested persons that complies with Local Rule 3.1(c).

#### **IV. CONCLUSION**

DFA provides notice that this action is removed from the 192nd Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

DATED: October 26, 2017

Respectfully submitted,

**BAKER BOTTS, L.L.P.**

/s/ Timothy S. Durst

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**ATTORNEYS FOR DEFENDANT  
DAIRY FARMERS OF AMERICA, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 26th day of October, 2017, a true and exact copy of the foregoing was sent, via email and hand delivery, to:

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*/s/ Timothy S. Durst*  
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